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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

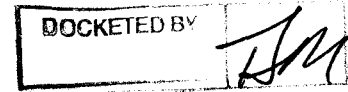
BOB STUMP - Chairman  
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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

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FEB 01 2013



JOHN E. DOUGHERTY,  
COMPLAINANT,

V.

MONTEZUMA RIMROCK WATER  
COMPANY, LLC,

RESPONDENT.

DOCKET NO. W-04254A-11-0323

PROCEDURAL ORDER

**BY THE COMMISSION:**

On August 23, 2011, John E. Dougherty and William Nicholas Kopko (jointly "Complainants") jointly filed with the Arizona Corporation Commission ("Commission") a Formal Complaint ("Complaint") against Montezuma Rimrock Water Company, LLC ("Montezuma"), in which the Complainants made 14 separate allegations against Montezuma; requested that the Commission schedule an Order to Show Cause ("OSC") Hearing to consider revoking Montezuma's Certificate of Convenience and Necessity ("CC&N"); and requested that the OSC hearing be held before the Commission considered Montezuma's emergency rate case application, filed in Docket No. W-04254A-11-0296 ("Emergency Rate Case Docket").

Since that time, in this docket, Mr. Kopko has been permitted to withdraw as a Complainant; numerous filings have been made; Mr. Dougherty has been permitted to modify the Complaint; Montezuma has filed its Answer to the Complaint; several procedural conferences have been held (the most recent on April 30, 2012); and Montezuma's original counsel has been replaced. In addition, the Emergency Rate Case Docket has been closed.

At the April 30, 2012, procedural conference, Montezuma represented that it would soon be filing a general rate case application, that it needed to determine whether to move forward with a capital lease or an operating lease for arsenic treatment facilities, and that it was contemplating filing

1 a motion to dismiss Mr. Dougherty's Complaint. Additionally, Mr. Dougherty indicated that he  
2 would consider withdrawing his Complaint if he were granted intervention in a new Montezuma rate  
3 case, and Montezuma and Mr. Dougherty were both urged to try to come to an understanding  
4 concerning how to move forward with this docket and in general.

5 The only filing in this docket since that time was a Motion to Set Hearing filed by Mr.  
6 Dougherty, on October 26, 2012.<sup>1</sup> Montezuma has not made any filings in this docket since the April  
7 30, 2012, procedural conference. Montezuma has, however, filed a general rate application and  
8 several financing applications, all of which have been consolidated into a single matter (Docket Nos.  
9 W-04254A-12-0204 et seq.) ("Rate Docket"), in which Mr. Dougherty has been granted intervention.  
10 Additionally, the Rate Docket has progressed to sufficiency, has had a hearing date scheduled and  
11 then vacated, and is scheduled to have a procedural conference on February 25, 2013, at which a  
12 procedural schedule will be discussed.

13 Montezuma also has a pending A.R.S. § 40-252 matter in the docket for its 2008 rate case and  
14 financing application, Docket No. W-04254A-08-0361 et al. ("A.R.S. § 40-252 Docket"), in which  
15 Mr. Dougherty has also been granted intervention. Filings have recently been made in the A.R.S. §  
16 40-252 Docket by Montezuma's owner, Patricia Olsen, on behalf of Montezuma, although  
17 Montezuma is represented by counsel therein, and Ms. Olsen has previously been advised that she is  
18 prohibited from making such filings because Montezuma is represented by counsel.<sup>2</sup>

19 Because the Rate Docket, the A.R.S. § 40-252 Docket, and this docket have overlapping  
20 parties and are closely related on a factual level, it is reasonable and appropriate to have the  
21 procedural conference scheduled for February 25, 2013, proceed as a joint procedural conference at  
22 which the parties will discuss the procedural schedule for the Rate Docket, how this docket and the  
23 A.R.S. § 40-252 Docket should progress toward resolution, and whether either this docket or the  
24 A.R.S. § 40-252 Docket (or both of them) should be consolidated with the Rate Docket or  
25 administratively closed.

26  
27 <sup>1</sup> This Motion has been deemed denied pursuant to operation of the Procedural Order of August 31, 2011.

28 <sup>2</sup> See Procedural Order of January 11, 2012, in the A.R.S. § 40-252 Docket. Counsel for Montezuma needs to ensure that it is fully informed of the facts surrounding its client's activities and each Commission docket in which its client is involved.

1       IT IS THEREFORE ORDERED that a joint **procedural conference** shall convene in this  
2 matter, the Rate Docket, and the A.R.S. § 40-252 Docket on **February 25, 2013, at 10:00 a.m.** or as  
3 soon thereafter as is practicable, in Hearing Room No. 1 at the Commission's offices at 1200 West  
4 Washington Street, Phoenix, Arizona 85007.

5       IT IS FURTHER ORDERED that the parties shall appear in person at the procedural  
6 conference.

7       IT IS FURTHER ORDERED that the parties shall be prepared at the procedural conference to  
8 make proposals regarding a new procedural schedule for the Rate Docket and to discuss how this  
9 docket and the A.R.S. § 40-252 Docket should progress toward resolution and whether either this  
10 docket or the A.R.S. § 40-252 Docket (or both of them) should be consolidated with the Rate Docket  
11 or administratively closed.

12       IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
13 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona  
14 Supreme Court Rule 42). Representation before the Commission includes appearing at all hearings,  
15 procedural conferences, and Open Meetings at which the matter is scheduled for discussion, unless  
16 counsel has previously been granted permission to withdraw by the Administrative Law Judge or the  
17 Commission.

18       IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules  
19 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

20       IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
21 Communications) applies to this proceeding and shall remain in effect until the Commission's  
22 Decision in this matter is final and non-appealable.

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28 ...

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 1st day of February, 2013.

  
SARAH N. HARPRING  
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered/e-mailed this 1st day of February, 2013, to:

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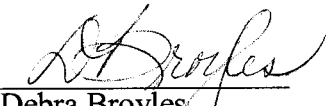
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By:   
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